

COLORADO INDEPENDENT ETHICS COMMISSION
ANNUAL REPORT 2014

Rosemary Marshall, Chair
Matt Smith, Vice Chair
Bob Bacon, Commissioner
William J. Leone, Commissioner
Bill Pinkham, Commissioner

Amy C. DeVan, Executive Director

Background

The Colorado Independent Ethics Commission (“IEC” or “Commission”) was created by a voter-initiated constitutional amendment. This amendment, commonly referred to as “Amendment 41,” passed with more than 62% of the vote, and became effective on December, 31, 2006 as Article XXIX of the Colorado Constitution. The IEC is authorized to implement and enforce Article XXIX. The Article, section 5, provides:

The purpose of the independent ethics commission (sic) shall be to hear complaints, issue findings, and assess penalties, and also to issue advisory opinions on ethics issues arising under this article, and any other standards of conduct and reporting requirements as required by law.

The IEC has jurisdiction over all employees and elected officials in the legislative and executive branches of state government, as well as employees and elected officials of county and municipal governments that are not home rule entities and which do not have their own ethics ordinances. The Commission does not have jurisdiction over employees and elected officials of special districts or school districts.

The Commission consists of five members, appointed as follows: one member is appointed by the Colorado House of Representatives, one by the Colorado Senate, one by the Governor, and one by the Chief Justice of the Colorado Supreme Court. The fifth commissioner is selected by the other four members of the IEC and must be a local government employee or elected official.

Commissioners serve without compensation but are reimbursed for actual and necessary expenses incurred in carrying out their official duties. Commissioners are appointed to four-year terms and may be reappointed. No more than two commissioners may be from the same political party.

The IEC held its first meeting on December 11, 2007. Originally physically located within the Office of Administrative Courts at the Department of Personnel and Administration, the IEC’s offices were moved to the Judicial Department in 2010 pursuant to HB 1404. The Commission’s offices moved to the new Ralph Carr Judicial Center in December 2012.

The members of the Commission in 2014 were: Rosemary Marshall, Chair; Matt Smith, Vice Chair; Bob Bacon; William J. Leone; and Bill Pinkham.

The work of the Commission on its constitutionally-mandated mission to issue advice and hear complaints is summarized below. In addition, Commission staff responds to open records requests

pursuant to the Colorado Open Records Act (“CORA”), C.R.S. § 24-72-10, conducts trainings of state and local employees and officials, and answers informal questions from covered individuals, the press and public.

Advisory Opinions

The Commission issued fifteen opinions in 2014. Five advisory opinion requests were withdrawn, one was abandoned, and three remained pending at the end of the calendar year; of the three that were pending two were resolved in January 2015, one remains outstanding. The opinions issued were:

Advisory Opinion 13-13 (Negotiations for Future Employment) This opinion deals with the need for state employees negotiating future employment to remember their duty of loyalty in searching for a new position with companies currently doing business with the State of Colorado. (Filed 2013, completed 02/25/2014)

Advisory Opinion 14-01 (Acceptance of Gifts) This opinion addressed whether employees of the county Clerk and Recorder could accept a gift from the Denver Broncos football team. (04/14/2014)

Advisory Opinion 14-02 (Travel Paid by a Foreign Government) This opinion addressed the acceptance of travel expenses from a foreign government by the Executive director and staff members of the Department of Revenue. (02/10/2014)

Advisory Opinion 14-03 (Travel Paid for by Third Party) This opinion addressed the acceptance of travel expenses from a nonprofit by the Executive Director of the Department of Revenue. (02/25/2014)

Advisory Opinion 14-04 *Withdrawn*

Advisory Opinion 14-05 (Acceptance of Travel Expenses Paid by Third Party) This opinion addressed whether the Senior Director of Enforcement for the Department of Revenue may accept travel expenses from a nonprofit. (06/09/2014)

Advisory Opinion 14-06 *Withdrawn*

Advisory Opinion 14-07 *Abandoned*

Advisory Opinion 14-08 (Acceptance of Gifts) This opinion addressed whether the acceptance of gifts by employees of the Division of Motor Vehicles was appropriate. (07/07/2014)

Advisory Opinion 14-09 (Acceptance of Travel Expenses Paid by Third Party) This opinion addressed the acceptance of travel expenses by the Executive Director of the Department of Revenue by a nonprofit. (04/14/2014)

Advisory Opinion 14-10 (Acceptance of Travel Expenses Paid by Third Party) This opinion addressed the acceptance of conference fees and related travel expenses by the Secretary of State under the specific facts and circumstances presented in the request. (07/23/2014)

Advisory Opinion 14-11 (Travel) This opinion addressed the acceptance of travel expenses from a vendor doing business with the state by a County Clerk and Recorder. (06/09/2014)

Advisory Opinion 14-12 (Travel Reward Programs) This opinion addressed the receipt and acceptance of travel rewards/frequent flyer miles. (07/07/2014)

Advisory Opinion 14-13 (Acceptance of Travel from the State) This opinion addressed acceptance of travel expenses from the Secretary of State's office by the Deputy Secretary of State. (07/23/2014)

Advisory Opinion 14-14 *Withdrawn*

Advisory Opinion 14-15 (Acceptance of Travel Expenses Paid by Third Party) This opinion addressed acceptance of travel expenses paid by a nonprofit to the benefit of the Director of Marijuana Enforcement for the Department of Revenue. (07/07/2014)

Advisory Opinion 14-16 (Acceptance of Travel Expenses Paid by Third Party) This opinion addressed acceptance of travel expenses by a nonprofit for a fellowship by the Legislative Director for the Office of the Governor. (07/07/2014)

Advisory Opinion 14-17 (Expenses Paid for by Non-Profit Organization) This opinion addressed acceptance of travel expenses paid to a County Commissioner who also served as a Regional Counsel Member for the nonprofit. (08/08/2014)

Advisory Opinion 14-18 *Withdrawn*

Advisory Opinion 14-19 *Withdrawn*

Advisory Opinion 14-20 *Issued in 2015*

Advisory Opinion 14-21 (Acceptance of Gifts) This opinion addressed whether it was a violation for the Town of Georgetown to accept gifts in the form of ski tickets from an unaffiliated entity. (11/20/2014)

Advisory Opinion 14-22 *Pending*

Advisory Opinion 14-23 *Issued in 2015*

Letter Rulings

Letter Ruling 14-01 (Paying and nonpaying attendees at an event) This ruling addressed whether a member of the general assembly and staff may attend educational events sponsored by the Colorado Health Institute, a nonprofit entity.

Letter Ruling 14-02 (Subsequent Employment or Contract) This ruling addressed whether a former employee of a state agency may enter into part time employment or act as a consultant with private entities that continue to contract with the agency.

Position Statements

The commission considered one position statement in 2014, which was converted from an Advisory Opinion. On November 20, 2014 the commission voted to table the Position Statement.

Complaints

The Commission received twenty four complaints in 2014. Twenty two complaints were dismissed as frivolous. Two complaints were stayed. No additional complaints remained pending at the end of the calendar year.

Hearings were held and a final decision was reached in Complaint 13-11, which carried over from the prior year.

A summary of the Commission's work to date is attached as Appendix A.

Other Activities

The Commission is currently the defendant in one case filed with the Colorado Court of Appeals. *Scott Gessler v. Independent Ethics Commission*, 2014CA670.

The Commission received and responded to approximately nineteen requests pursuant to the Colorado Open Records Act ("CORA").

In September 2014 the IEC hired a new Executive Director. There is a vacancy in the Assistant to the Director position. In addition, in 2014 the Commission developed, implemented and adopted both an employee policy manual, and a record retention policy.

Conclusion

The Commission continued to receive a steady influx of complaints and requests in 2014, but despite its heavy workload, the IEC managed to issue advisory opinions and handle complaints in a timely manner.

Appendix

Year	Mtgs.	Opinions				Complaints	Hearings	CORA Requests	Trainings	Informal advice calls
		AO	LR	PS	Total Opinions					
2008	24			3	3	4	0	4	2	57
2009	25	9	5	7	21	14	1	8	6	@175
2010	20	16	2	1	19	9	3	12	7	@150
2011	13	12	0	1	13	12	1	9	34	82
2012	13	9	1	2	12	7	2	13	14	75
2013	21	10	0	0	10	14	3	27	4	232
2014	21	17	2	0	19	24	1	19	3	@110
Total	137	73	10	14	97	84	11	92	70	881

LEGEND:

AO = Advisory Opinion

LR = Letter Ruling

PS = Position Statement

Meetings include all in person meetings and telephonic meetings. @ = estimated calls - official records not maintained